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SECDEF FOR OSD/ISP
JOINT STAFF FOR DD PMA-A FOR WTC
COMMERCE FOR BIS (GOLDMAN)
NSC FOR CHUPA
WINPAC FOR FOLEY

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TAGS: [PARM](#) [PREL](#) [CWC](#)

SUBJECT: CHEMICAL WEAPONS CONVENTION (CWC): ARTICLE VII
CONSULTATIONS

Classified By: Phil Kellogg for reasons 1.5 (b) and (d)

This is CWC-78-03.

[1](#)1. (U) This is the weekly reporting cable for July 21-25,
[1](#)2003.

[1](#)2. (U) RFGs contained in paragraphs 17 & 24.

Informal Consultations of the EC on
Plan of Action Preparations
Article VII and Universality

[1](#)3. (U) On July 24, Ambassador Petr Kubernat, EC Chairman, presided over the Informal Open-ended Consultations on the preparation of the plans of action on National Implementation and Universality. Amb. Kubernat stated that the objectives of the meeting were to clarify how the Executive Council (EC) would proceed on the two plans of action. The group would not be taking a decision on either issue at this point.

[1](#)4. (U) Amb Kubernat reminded the group that the Review Conference had decided that a plan of action for both Article VII and Universality were needed. EC-34 was required to provide recommendations on the Article VII plan of action to CSP-8 in October while the Universality plan of action did not have a timeframe associated to it. Amb. Kubernat stated that his goal for the Universality plan of action was to have it developed by EC-35 in December.

--Universality Plan of Action--

[1](#)5. (U) The meeting began with a brief discussion of Universality. Amb. Kubernat announced that Consuelo Femenia, Spain, would be the new facilitator for the Universality plan of action. Ms. Femenia was not present at the meeting, however, Amb. Kubernat informed the group that Ms. Femenia's plans were to work bilaterally with States Parties in August to get their views on Universality, prior to setting a date for an initial meeting.

[1](#)6. (U) Yu Huang, Director, External Relations, presented an informal TS paper on Universality, (Draft Elements of an Action Plan on Universal Adherence to the CWC -- faxed to AC/CB). Since this was the first opportunity for States Parties to see this paper, there was no discussion of the text. However, the Mexican delegation pointed out that the TS paper did not include any references to the work of the

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International Cooperation and Assistance (ICA) Division. She asked whether the TS would put out another paper to include ICA's contribution. In reply, DDG Hawtin announced his intention to spearhead a task force approach to coordinating issues on Article VII and Universality. He emphasized the need to enforce coordination among the TS divisions and that he would personally lead this effort. (NOTE: Ralf Trapp assured Del on the margins that ICA Division had coordinated on Huang's paper, but the fact remains that no ICA activity was incorporated into the draft.)

--Article VII Plan of Action--

[1](#)7. (U) Amb. Kubernat announced that Mark Matthews, UK, would be the facilitator for the Article VII plan of action. He informed the group that there were currently two papers tabled for consideration, a U.S. national paper and an informal TS paper.

[1](#)8. (U) The U.S. del presented the U.S. national paper to the group. Del stressed the importance of maintaining the momentum from the Review Conference by developing a plan of action for EC-34 to recommend to CSP-8. Del emphasized that it was essential to establish a clear timeframe for meeting Article VII obligations and proposed CSP-10 as the timeframe for compliance. Del also noted that if there were States

Parties who were unwilling to meet their Article VII obligations by CSP-10, the Conference would have the action to remedy the situation, in accordance with Article XII.

19. (U) Del noted the focus of the national implementation should primarily be on 1) criminalizing CW activities, and 2) the authority to compel industry declarations to the national government. The plan should emphasize States Parties' responsibility to come into compliance.

10. (U) Amb. Kubernat announced that Mr. Trapp, TS Office of the DDG, had been selected as the TS representative to coordinate the TS efforts on Article VII issues. Mr. Trapp presented an informal TS paper (Possible Approach to developing an OPCW Action Plan on National Implementation of the CWC - faxed to AC/CB). Mr. Trapp stated that the TS paper was basically a "think piece" on the issue of Article VII obligations.

11. (U) The Netherlands asked what the budget implications were for implementing the actions associated with these plans. DDG Hawtin stated that there were currently no resource issues. He believed that there would not be a need to insert a line item in the 2004 budget. However, if 2005 was established as the deadline for compliance, the TS might have to request additional funding to meet this demand.

12. (U) As the facilitator, Mr. Matthews stressed that there was much work to be done to develop a plan of action by EC-34. He stated that his plan for the facilitation was to begin bilateral consultations with States Parties now and to hold a first open-ended consultation at the end of August (29 August). By a second meeting in early September he would present a facilitator's paper for discussion. He stated that he would be in The Hague through the month of August. There were several dels that noted the difficulties in meeting during August, since this is the summer holiday time. Mr. Matthews stated that he would attempt to work out a solution.

Meeting with the DDG and
Article VII Facilitator

13. (U) Del met in the afternoon of July 24 with DDG Hawtin, Ralf Trapp, Sarah Foulds, and Mark Matthews to directly discuss the U.S. national paper and to get feedback on the paper from the TS and the facilitator. The U.S. del reviewed the key elements of the paper with the group and asked for comments.

14. (SBU) The DDG opined that this was the first time that the OPCW had been tasked to write a plan of action. He stressed his concern that the vision of what a plan of action would look like means different things to different States Parties. He strongly emphasized that the mention of Article XII in a plan of action would "scare the horses." He is very concerned that, if the U.S. presses this point too hard, it would be detrimental to the plan itself.

15. (SBU) The DDG also asked if the U.S. believed that all 153 States Parties would be fully compliant with Article VII in 2 years time. He noted the difficulty some States Parties would have in meeting this timeframe. He said that he did not oppose the two-year proposal. However, he asked if a State Party was acting in good faith to meet its obligations, but had missed the timeline, would the U.S. consider it as non-compliant as a State Party who had done nothing in two years? Del responded that the onus would be on the States Parties to explain why a two-year timeframe was unachievable.

16. (SBU) The DDG stated that it would be a big task not only for States Parties, but also for the TS to get States Parties to meet these obligations in two years. He asked whether the U.S. would consider the idea of States Parties providing consultants, cost-free experts, or organizing events to assist the TS in this effort.

17. (SBU) RFG: What is Washington's position regarding the idea of States Parties providing consultants or cost-free experts to assist the TS in Article VII activities?

18. (S) The DDG privately reflected, (Please Protect), his concern that a 2005 timeframe for compliance would be demanding. He reminded the Del that the Results Based Budgeting was to be implemented by the TS in 2005. This would require a lot of work between now and 2005 and that it would require the TS to work with the non-WEQG States Parties to change the culture of how the budget will be implemented. He asked that we keep both issues in perspective as we develop the Article VII plan of action. He feared that we were moving too far too fast. He wondered whether we would consider moving the Article VII plan of action timeline to 2006.

19. (S) Mr. Trapp opined that the plan of action approved by the EC and, ultimately by the CSP, would need to be a top

level document that clearly lays out the mechanisms and targets. However, he envisioned that in order to implement the approved plan a more detailed version would be developed by the TS to operationalize the overall plan of action.

120. (SBU) Mr. Trapp mentioned that the TS had received a proposal from Barry Kellman on ways to help States Parties develop implementing legislation. The TS has not yet made a decision on this proposal.

121. (SBU) Mr. Matthews stated that he would be using the U.S. national paper as the basis from which the facilitator's paper on the Article VII action plan would be drafted. The del will be meeting with Mr. Matthews during the week of July 28 to discuss the paper in more detail.

Meeting with the TS Legal Officers

122. (U) On Friday, July 25, Del met with TS representatives from the Legal Advisors office to review the status of States Parties response to Article VI and VII questionnaires. The U.S. del briefed the TS on the status of the U.S. demarches to States Parties who had not responded to the questionnaires nor had established a national authority.

123. (U) The TS informed the Del that it had sent a Note Verbal to States Parties requesting a status of their national implementation measures. The TS plans to provide an updated report to CSP-8 on national implementation measures. Also, the TS stated that they were creating legal models for each type of legal system in the various regions. The TS will be looking for States Parties to comment on these models, once they are completed. The TS asked whether the U.S. nominees to the Legal Network meeting, scheduled for November, would be willing to review and comment on these models. Del stated that they would inquire on the availability of the nominees to take on this task.

124. (U) RFG: Would one or both of the U.S. nominees be available to provide review and comment to the TS legal models being developed? It is not anticipated that travel would be required.

Comments from Japan

125. (SBU) The Del met with Chiho Komuro, Japanese delegation, to receive comments from Japan on the U.S. national paper for Article VII. Japan shares the views of the U.S. that a plan of action must be developed immediately. However, Japan emphasized that it was essential that the U.S. get the developing States Parties on board with this plan. Japan is very concerned that the tone of the paper was too strong in some places and that it would turn the developing States Parties against the U.S. plan. For example, Japan does not support the reference to Article XII. They believe that it will make it impossible to gain consensus on a plan of action. It will place the developing States Parties in a defensive position and such political pressure would not be productive.

126. (SBU) Japan said that it would support the two-year timeframe, however, it believed that the U.S. was too optimistic in believing that all States Parties could meet this goal by CSP-10.

127. (SBU) Japan emphasized that the U.S. outreach may not be applicable in all regions, namely in Asia and with the Middle Eastern States Parties. Also, the emphasis on regional groups needing to identify a lead State Party to foster other States Parties would not be agreeable to the Asian Group. This concept would only heighten already tense discussions within the Asian Group.

128. (C) Japan noted, in confidence, that the Asian Group will meet 20 August to try to reach consensus on a delegation to coordinate the group for the next year. China and Japan are the two candidates. The Asian Group must also nominate the next Chairman of the CSP, to take office in October. Naturally, the possibility of China taking one job and Japan the other has occurred to delegations as a possible compromise solution.

129. (SBU) Japan asked the U.S. to poll the developing States Parties about their reaction to the paper. Japan would like to be kept informed of the responses to the paper received by the U.S.

Other Business

130. (U) The DDG informed the Del that Eva Murray, Canada, was selected as the newly hired Head, Human Resources Branch.

131. (U) Kellogg sends.
RUSSEL